WP(C) 947/2007
BEFORE
HON'BLE JUSTICE B.K. SHARMA

Heard Mr. A. Das, learned counsel for the petitioner as well as Ms. R. Chokraborty, learned State counsel representing the State respondents. I have also heard Mr. K. Das, learned S.C., BTC.

The petitioner holds the substantive post as Junior Assistant in the Food & Civil Supplies at Udalguri under BTC. His services were borrowed by the Deputy Commissioner, Udalguri in his office. Now a stalemate has been created by not paying the salary to the petitioner from November, 2006. While it is the case of the petitioner that since he has been under administrative control of the BTC and his substantive office is under Food & Civil Supplies Department, the Deputy Commissioner, Udalguri who borrowed his services has created the situation in which neither the petitioner has been reverted back to the Food & Civil Supplies, BTC nor his salary has been paid since November, 2006.

Ms. R. Chokraborty, learned State counsel was requested to obtain instruction in this regard. In the order passed on 05.04.07 it was directed that the Deputy Commissioner, Udalguri would furnish report as to what action has been taken in the matter. Ms. Chokraborty has produced the letter dated 07.04.07 addressed to her by the Deputy Commissioner, Udalguri enclosing therewith certain communications relating to payment of salary to the petitioner. The communications have revealed that the Deputy Commissioner, Udalguri has instructed the Assistant Director, Food & Civil Supplies, Udalguri to release the salary of the petitioner. The Assistant Director, Food & Civil Supplies in turn has communicated that he has requested the BTC to make founds available for payment of salary to the petitioner.

Apart from the above communications there is no concrete materials towards actual payment of salary to the petitioner. Learned S.C., BTC submits that since Food & Civil Supplies Department is under the administrative control of the BTC, the Deputy Commissioner, Udalguri could not have withdrawn the service of the petitioner without taking prior approval of the BTC. He submits that the Deputy Commissioner, Udalguri has created the present stalemate.

The stand of the Deputy Commissioner is that the service of the petitioner has been borrowed in the exigencies of service. Whatever may be the reasons of borrowing the service of the petitioner, same cannot lead to non-payment of salary to the petitioner. This has led to some amount of forced labour and exploitation of the petitioner. Further if the petitioner belongs to Food & Civil Supplies Department, his service cannot be borrowed indefinitely and that too without payment of salary.

The writ petition is disposed of with a direction to the Deputy Commissioner, Udalguri to revert back the petitioner to Food & Civil Supplies wing, Udalguri under BTC immediately. The Assistant Director, Food & Civil Supplies and the authorities of the BTC shall give necessary approval towards payment of salary to the petitioner.

Entire exercise shall be carried out as expeditiously as possible, but not later than 30.04.07, so that the petitioner gets his salary in the 1st week of May, 2007. The petitioner may obtain a certified copy of this order and furnish the same before the Deputy Commissioner, Udalguri for his necessary follow up action.

Writ petition stands disposed of.